



U.S. Senate Committee on Commerce, Science, and Transportation

Senator John D. (Jay) Rockefeller IV, Chairman

Chairman Rockefeller's Consumer Choice in Online Video Act

"We have all heard the familiar complaint that we have five hundred channels, but there is nothing to watch. My legislation aims to enable the ultimate a la carte – to give consumers the ability to watch the programming they want to watch, when they want to watch it, how they want to watch it, and pay only for what they actually watch." – Chairman Rockefeller

Consumers are clamoring for more control over the content they watch. The reason is simple: consumers face ever-increasing pay television bills and still have little say in the channel packages they can purchase. They're starting to migrate toward the Internet to watch their favorite programs and movies online, rather than through broadcast, cable, or satellite television. But online video is not yet a full competitor to pay television services for the millions of Americans who want to have more control and choice over what they purchase. Online video certainly promises to bring a marketplace focused on consumers with lower prices and more consumer choice, but there are obstacles in the current environment that online video programmers are struggling to overcome. Evidence suggests that the traditional media and broadband companies are inhibiting the growth of online video platforms through various anticompetitive practices.

Chairman Rockefeller's bill would make sure that incumbent media and broadband companies cannot simply perpetuate the status quo through exercise of their market power. The Internet has revolutionized many aspects of American life and proven to be a disruptive and transformative technology, but it hasn't led to real transparency and competition in the online video marketplace. Broadband-based online video today stands at a crossroads. Consumers clearly have an appetite for online video and the choice and flexibility it affords, and innovative companies have risen to tap into that demand. But their ability to fully compete has been compromised. Rockefeller's legislation will help remove the barriers to those services that inhibit their ability to harness the power of the Internet and improve the consumer experience in the video marketplace.

Under Rockefeller's legislation, online video providers will be empowered to offer more consumer-centric video programming by protecting them from anticompetitive practices on the part of marketplace incumbents. Online video companies who want to offer services similar to those provided by cable and satellite companies would be given regulatory parity with those existing services. And consumers would be afforded more information about their broadband Internet service so they could make the right decisions about which package best fits their needs. Rockefeller's legislation seeks to nurture new online video technologies and services, while starting an overdue conversation about the best way to protect and promote a video marketplace that benefits consumers.

Rockefeller's bill would:

- **Bar cable, satellite, broadcast, and large media companies from engaging in anti-competitive practices against online video distributors.** It gives all online video distributors fundamental competitive protections in the video marketplace similar to what satellite providers were given in the Cable Competition and Consumer Protection Act of 1992.
- **Provide online video distributors with reasonable access to video programming and facilitate their ability to offer more consumer choice in programming and services.** It puts reasonable limits on the use of contractual provisions in video programming carriage contracts that harm the growth of online video competition. It also explores ways for online video distributors to negotiate to carry broadcast television content and facilitate greater consumer choice in programming.
- **Limit the ability of broadband providers to degrade competitive online video services, which maintains online video providers' pipeline to consumers.** This would protect online video distributors against anticompetitive practices by Internet service providers who are affiliated with traditional cable or satellite television providers.
- **Empower consumers with new truth-in-billing protections for broadband Internet service.** Consumers would be provided with clear and understandable terms and conditions for their Internet service so they can make informed decisions about which package and speed best fits their needs. It also directs the Federal Communications Commission to monitor broadband billing practices to make sure they are not used anticompetitively.

Two decades ago, cable companies were leveraging their market power to block competition from satellite television providers. Congress passed the Cable Television and Consumer Protection Act of 1992 in part to stop this activity and foster increased competition in video services. Congress realized that, particularly with respect to video services, market forces alone do not create true competition because entrenched interests hold dominant control over the content (and now with online video, the transmission architecture) necessary for new services to compete effectively.

Now, recent reports suggest that some entrenched incumbent media companies and broadband providers are engaging in anticompetitive activity to limit the ability of online video distributors to enter the market. These actions include limiting the availability of content on online platforms and degrading the experience of some online video platforms. Rockefeller's bill builds upon the legacy – and the promise – of the 1992 Cable Act by giving online video distributors the protections needed to thrive. When Congress protected the growth of satellite television services two decades ago, it did so because regulation in the name of competition was necessary to empower consumers and facilitate the development of new innovative video services. The same is true today with the ability of online video distributors to respond to consumer demand for innovative services. With the protections given by Rockefeller's legislation, online video distributors would be afforded the breathing room necessary to begin a consumer-centric revolution in the video marketplace.

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